

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
CLERK'S OFFICE  
DEC 10 P 4 40

WILLIAM J. EDWARDS,

Plaintiff,

v.

THE ORIGINAL FOOTWEAR COMPANY,

Defendant.

04 - 12593 RGS

Civil Action No.

RECEIPT # 60741  
AMOUNT \$ 150.00  
SUMMONS ISSUED N/A  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. M.P.  
DATE 12/10/2004

**NOTICE OF REMOVAL**

To the Clerk:

The Original Footwear Company, defendant in the above-entitled action pending in the Massachusetts Superior Court, Norfolk County, as Civil Action 04-01545, removes same to the United States District Court for the District of Massachusetts.

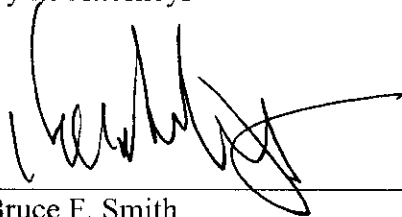
MAGISTRATE JUDGE Cohen

Defendant states the following as grounds for removal:

1. Upon information and belief, plaintiff is a citizen of Massachusetts.  
Defendant is a citizen of California. The Complaint alleges an amount in controversy that exceeds \$75,000. Accordingly, this Court has original subject matter jurisdiction under 28 U.S.C. § 1332(a)(1).
2. This Notice of Removal is being filed within 30 days after defendant's receipt of the initial pleading.
3. Removal to this Court is authorized by 28 U.S.C. § 1441 because the state court in which this action was filed lies within this District.

4. A copy of all process, pleadings, and orders served upon the defendant is attached.

THE ORIGINAL FOOTWEAR COMPANY  
By its Attorneys



Bruce F. Smith  
BBO# 467900  
Howard P. Blatchford, Jr.  
BBO# 045580  
JAGER SMITH P.C.  
One Financial Center  
Boston, MA 02111  
(617) 951-0500

Dated: December 10, 2004.

I hereby certify that a true  
copy of the above document was  
served upon (each party appearing pro se  
and) the attorney of record for each other  
party by mail (by hand) on 12-10-2004.



(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:  
TORT - MOTOR VEHICLE TORT - CONTRACT -  
EQUITABLE RELIEF - OTHER.)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION

NO 04 01545

William J. Edwards  
....., Plaintiff(s)

v.

The Original Footwear Company  
....., Defendant(s)

SUMMONS

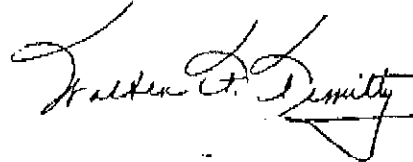
To the above-named Defendant:

You are hereby summoned and required to serve upon Conrad J. Bletzer, Jr.,  
plaintiff's attorney, whose address is 300 Market St., Brighton, MA 02135, answer to the com-  
plaint which is herewith served upon you, within 20 days after service of this summons upon you,  
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you  
for the relief demanded in the complaint. You are also required to file your answer to the com-  
plaint in the office of the Clerk of this court at Dedham either before service upon plaintiff's attorney  
or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim  
any claim which you may have against the plaintiff which arises out of the transaction or occur-  
rence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making  
such claim in any other action.

WITNESS, SUZANNE V. DELVECCHIO, Esquire, at ..... the .....

day of ....., in the year of our Lord two thousand and .....

 Clerk.

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption.  
If a separate summons is used for each defendant, each should be addressed to the particular defendant.

### PROOF OF SERVICE OF PROCESS

I hereby certify and return that on \_\_\_\_\_, 20\_\_\_\_, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

.....

.....

.....

Dated: \_\_\_\_\_, 20\_\_\_\_\_

**N. B. TO PROCESS SERVER:-**

**PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.**

\_\_\_\_\_, 20\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. SUPERIOR COURT  
CIVIL ACTION

NO.

....., Plaintiff

v.

....., Defendant

SUMMONS

(Mass. R. Civ. P.4)

## COMMONWEALTH OF MASSACHUSETTS

04 01545

NORFOLK, ss

NORFOLK SUPERIOR COURT

C.A. No.

04 01545

WILLIAM J. EDWARDS,  
Plaintiff

V.

THE ORIGINAL FOOTWEAR COMPANY,  
Defendant)  
)  
)  
)  
)  
)  
)COMPLAINTTHE PARTIES

1.) The plaintiff, William J. Edwards, is an individual living and doing business at 173 Vine Rock Street in Dedham, MA 02026, Norfolk County.

2.) The defendant, The Original Footwear Company, is a corporation with an address of 4901 Cloutier Drive, Suite B in Salida, CA 95368.

THE FACTS

3.) In 2001, the plaintiff, a salesman, signed an "Independent Sales Representative Agreement" [Agreement] with the defendant. A Terry Mackness signed as "Chief Executive Officer/President" of The Original Footwear Company.

4.) This Agreement designated the plaintiff as a "Representative" of the defendant company.

5.) In this role as "Representative," the plaintiff was to actively seek sales opportunities for Original S.W.A.T. footwear in his designated territory of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

6.) Under the terms of the Agreement, the defendant was to pay to the plaintiff a 10% commission on all sales of Original S.W.A.T. footwear in the denoted territory.

7.) Relying on this agreement, the plaintiff facilitated a lucrative contract for Original S.W.A.T. footwear to be purchased by the Connecticut Department of Corrections [contract]. This contract is worth \$1,500,000.00.

8.) The plaintiff arranged for Horowitz Career Apparel and Uniforms of West Haven, CT to service the contract as the distributor. Horowitz Career Apparel and Uniforms was to receive \$5.00, above and beyond the plaintiff's 10% commission, on each pair of footwear purchased under the contract.

9.) Without the plaintiff being notified, the contract was awarded to another distributor, Lehigh Safety Shoe Company, LLC of Vestal, NY.

10.) As such, the defendant has refused to pay the plaintiff his 10% commission on the contract, violating the plain wording of the Agreement.

11.) The plaintiff has made demand upon the defendant to pay him 10 % of the contract. This amounts to \$150,000.00.

12.) The defendant has refused to pay the plaintiff the agreed commission on the contract.

13.) The defendant has been unfairly enriched by these actions.

14.) The defendant's actions are in violation of M.G.L. c.93A, §§ 2 & 11.

#### CAUSES OF ACTION

15.) Each Cause of Action specifically incorporates herein the paragraphs set forth above.

#### FIRST CAUSE OF ACTION

16.) This is a Cause of Action by the plaintiff, William J. Edwards, for breach of contract against the defendant, The Original Footwear Company.

#### SECOND CAUSE OF ACTION

17.) This is a Cause of Action by the plaintiff, William J. Edwards, for quantum meruit against the defendant, The Original Footwear Company.

#### THIRD CAUSE OF ACTION

18.) This is a Cause of Action by the plaintiff, William J. Edwards, against the defendant, The Original Footwear Company, for engaging in unfair and/or deceptive business practices in violation of M.G.L. c.93A, §§ 2 & 11.

**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the First Cause of Action.

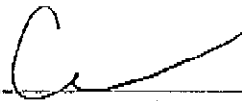
**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the Second Cause of Action.

**WHEREFORE**, the plaintiff, William J. Edwards, demands judgment against the defendant, The Original Footwear Company, on the Third Cause of Action, including treble damages, attorney's fees and costs.

**JURY DEMAND**

The plaintiff hereby demands a trial by jury on all issues.

Respectfully submitted for the plaintiff  
by his Attorney,



\_\_\_\_\_  
Conrad J. Bletzer, Jr.  
Bletzer & Bletzer, P.C.  
300 Market Street  
Brighton, MA 02135  
(617) 254-8900  
BBO# 045760

Dated: September 22, 2004

F:Edwards,Bill/Pleadings

NOV-30-04 TUE 03:20 PM DAM L NELSON SCHRIMP

FAX NO. 209 3-9320

P. 07

<b>CIVIL ACTION COVER SHEET</b>	DOCKET NO.(S)  <b>04 01545</b>	<b>Trial Court of Massachusetts Superior Court Department</b> County: <u>NO. FOLK</u>												
PLAINTIFF(S)  <u>William J. Edwards</u>	DEFENDANT(S)  <u>The Original Footwear Company</u>													
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Conrad S. Betzer, Jr.</u> <u>300 Market St. Brighton, MA 02135</u> Board of Bar Overseers number: <u>045760</u>	ATTORNEY (if known) <u>Richard Douglas Brew</u> <u>209-526-3500</u> <u>1601 I Street, 5th Fl. Menlo Park, CA 94025</u>													
Place an x in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F) <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X) <input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)														
Origin code and track designation														
<b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b> CODE NO. TYPE OF ACTION (specify) TRACK IS THIS A JURY CASE?														
<u>A01</u> <u>Breach of K-Services</u> (F) (✓) Yes ( ) No														
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.														
<b>TORT CLAIMS</b>														
(Attach additional sheets as necessary)														
A. Documented medical expenses to date: <table style="width:100%; border-collapse: collapse;"> <tr><td>1. Total hospital expenses</td><td style="text-align: right;">\$</td></tr> <tr><td>2. Total Doctor expenses</td><td style="text-align: right;">\$</td></tr> <tr><td>3. Total chiropractic expenses</td><td style="text-align: right;">\$</td></tr> <tr><td>4. Total physical therapy expenses</td><td style="text-align: right;">\$</td></tr> <tr><td>5. Total other expenses (describe)</td><td style="text-align: right;">\$</td></tr> <tr><td style="text-align: right;"><b>Subtotal</b></td><td style="text-align: right;">\$</td></tr> </table>			1. Total hospital expenses	\$	2. Total Doctor expenses	\$	3. Total chiropractic expenses	\$	4. Total physical therapy expenses	\$	5. Total other expenses (describe)	\$	<b>Subtotal</b>	\$
1. Total hospital expenses	\$													
2. Total Doctor expenses	\$													
3. Total chiropractic expenses	\$													
4. Total physical therapy expenses	\$													
5. Total other expenses (describe)	\$													
<b>Subtotal</b>	\$													
B. Documented lost wages and compensation to date														
C. Documented property damages to date														
D. Reasonably anticipated future medical and hospital expenses														
E. Reasonably anticipated lost wages														
F. Other documented items of damages (describe)														
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)														
TOTAL \$														
<b>CONTRACT CLAIMS</b>														
(Attach additional sheets as necessary)														
Provide a detailed description of claim(s): <u>Defendant breached contract with plaintiff agreeing to pay 10% commission on a contract worth \$1,500,000. Plaintiff is owed \$150,000 on this contract. Defendant violated M.G.L. c. 93A secs 2 and 11 and is responsible for treble damages, costs and attorney fees.</u>														
TOTAL \$ <u>500,000</u>														
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT														
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."														
Signature of Attorney of Record		DATE: <u>9/24/04</u>												



JS 44 (Rev. 3/99)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

William J. Edwards

(b) County of Residence of First Listed Plaintiff Norfolk Co., Mass.  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

The Original Footwear Co.

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE PROPERTY INVOLVED.

04-12593 RGS

Attorneys (If Known)  
Conrad J. Bletzer, Jr. (BBO# 045760)  
Bletzer & Bletzer, P.C.  
300 Market Street  
Brighton, MA 02135 (617) 254-8900

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Bruce F. Smith (BBO # 467900)  
Howard P. Blatchford (BBO# 045580)  
Jager Smith P.C. (617) 951-0500  
One Financial Center, Boston, MA 02111

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ DEF 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ DEF 4
- Citizen of Another State ☐ 2 ☒ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input checked="" type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (139510) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609

## V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Breach of Contract; Violation of G.L. c. 93A;  
Removal of state court action; Jurisdiction under 28 U.S.C. sec. 1332(a)(1)

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 150,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

None

DATE Dec. 10, 2004

JUDGE

SIGNATURE OF ATTORNEY OF RECORD

DOCKET NUMBER

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) William J. Edwards v. The Original Footwear Co.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

☐

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

☒

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

☐

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

☐

V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

None

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐NO ☒A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Bruce F. Smith and Howard P. BlatchfordADDRESS Jager Smith P.C., One Financial Center, Boston, MA 02111-2621TELEPHONE NO. (617) 951-0500